

**PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING/GENERAL MEETING
JUNE 26, 2012**

Place: Room 206, Town Hall

TIME: 8:00 P.M.

PLANNING & ZONING COMMISSION MEMBERS ATTENDING:
Conze, Spain, Hutchison, Cameron, Voigt

STAFF ATTENDING: Ginsberg, Keating
RECORDER: Syat
CHANNEL 79

Chairman Conze opened the meeting at 8:00 P.M., and read the first agenda item:

PUBLIC HEARING

Continuation of Public Hearing regarding Proposed Amendment to the Darien Zoning Regulations (COZR #2-2012) put forth by the Darien Junior Football League (DJFL). Proposing to modify subsection 405b(3) of the Darien Zoning Regulations to allow temporary lighting of outdoor recreational facilities to be up to thirty (30) feet high. The full text of the proposed zoning regulation amendment is on file and available in the Town Clerk's office and the Planning and Zoning Office for inspection.

Jim Coley of 48 Old Farm Road said that the amendment to allow taller lights by Special Permit is important for safety as well as eliminating dark spots on the fields. He said that lights could be pointed more downward to control light spillage. At the last meeting of May 22, 2012, he said there was a lot of personal opinions expressed and scientific evidence presented. He said the Commission needs to eliminate emotion for its decision making process.

Mr. Coley said that allegations were raised in the newspaper that DJFL or individuals within DJFL were seeking retribution against those opposed to lights at the playing fields or that DJFL was somehow responsible for the property damage that had occurred in prior years. He denied those allegations and said the Commission should not take those charges seriously. With respect to the lighting of the practice fields, DJFL's primary concern is for the safety of the children in the program.

Paul Michalski of 371 Middlesex Road said that some neighbors are fearful of speaking in opposition. He said some neighbors have asked him to speak on their behalf. He said it is a quiet residential area around Darien High School. Preserving the character of the neighborhood should be the Commission's main concern. He said that at the May 22, 2012 Planning & Zoning Commission meeting, Mr. Sini claimed he had not heard of a violation of Regulations during a trial of lights at higher than 20 feet; yet that was previously noted in the Hygenix report and many letters from surrounding neighbors. He said that light pollution comes in various forms. A light meter does not measure glare or glow from the illuminated area. He said that 30 foot lights could/would cause more glare problems for the neighbors. He said that the lights can create a nuisance and this light pollution (glare and glow) is a nuisance. He said that amending the Zoning Regulations for this situation is not appropriate. He said that the trial and experimental use of lights has demonstrated

DARIEN PLANNING & ZONING COMMISSION
PUBLIC HEARING/GENERAL MEETING
MINUTES
JUNE 26, 2012
PAGE 2 OF 25

that light spillage and impacts upon the neighbors cannot easily be controled. He said that amending the Regulations would lead to more and more applications throughout the Town where owners would assume they were entitled to 30 foot lights. This would be bad law making. Twenty foot lights work for practice situations. If the applicants want taller lights, they need a variance, not a change of the rules/Regulations. He said that trials have been going on for four years and it still impacts the neighbors. During the experiments with 30 foot lights, it was worse for some neighbors and no better for others.

Mr. Michalaski said in regard to the applicant's needs, if the 20 foot lights have been unsafe, then practices would have stopped. The Darien High School's and DJFL's reports state that 20 feet was safe and satisfactory for practice purposes. The lights have been a great success for safety and proper practices. They, the Darien Junior Football League (DJFL), assert now that 20 feet is safe and 30 feet is safer; but safest is not always the choice. Something that is "nice to have" is not the standard. Twenty foot lights is a benefit to be enjoyed by the community, not a burden to be imposed on the neighbors of the field. He said he believes that the DJFL goal is to have 90 foot tall permanent lights. More and more is not appropriate.

Ms. Cameron said that she has not read the account in the newspaper and asked what would be appropriate for temporary lights. Mr. Michalski said that the 20 foot practice lights are visible to neighbors, but they are only there for a short season and they are removed until the following year/season. He said that compromise has worked and has been acceptable to neighbors and that they have held back on formal complaints. At 30 feet, the glare from the lights is higher and sometimes above the trees. This is creating a greater impact on some neighbors. He said only measuring light trespass on a light meter is irrelevant, because glare and glow are the issues that matter the most. The thirty feet lights do not eliminate those problems.

Mr. Hutchison asked, as a technical question, is 30 feet better or worse? Mr. Conze said that the record for this application shall incorporate the previous years' applications and reports for the temporary lights at the Darien High School (Special Permit #188B and #188C from 2009).

Tom Delcer, speaking for himself (but noted that he is a Board member for the DJFL), said that the character of the neighborhood already includes a high school. He said that the lights in the parking lot have ambient light with impact on the neighbors. The 30 foot tall lights at the field would be "nice to have" but it is also important to not have kids getting hurt. The 20 foot lights help make practices safer and better, and safety is very important to the DJFL. High school practices go until 4:30 or 5:00 PM. There are numerous DJFL teams that must use the limited, safely lighted field area. He said that there is a possibility that it will impact the immediate neighbors' property values (approximately four or five homes) but it also might bring an incremental increase in value to all properties. He said that 20 foot lights versus 30 foot lights is a legitimate thing to vote on. Thirty feet is safer. He said that a full moon can have more impact on a neighbors property compared to 20 foot lights versus 30 foot lights.

Ms. Cameron said that we need to keep in mind that this is a proposed Regulation change for temporary lights.

Mr. Raleigh of Middlesex Road spoke to the applicant's reference to the newspaper account. He said that given the ages of those involved in the property damage, they were too old to have been

DARIEN PLANNING & ZONING COMMISSION
PUBLIC HEARING/GENERAL MEETING
MINUTES
JUNE 26, 2012
PAGE 3 OF 25

DJFL players. He said that Mr. Michalski covered most of the concerns that the neighbors have. He said that Section 405(b) has sensible conditions and restrictions with a shielded light source, not directed towards neighbors and a maximum of 20 feet over grade. The Regulation upholds legitimate rights of all neighbors. He said that the proposed change from 20 feet to 30 feet temporary lights is not acceptable. Lights are positioned on the east side of the field so they will be directed away from most neighbors, thus the players, with the associated noise and activity, are concentrated on the east side of the field. He showed a photograph of before and after when the twenty foot lights at Darien High School were raised to 30. He showed two photos from November 2010, which show lights at 30 feet (photo on the bottom) and lights at 20 feet (photo on top). He said that during that experiment, they neglected to shield the lights and direct them away from the neighbors. A lighting expert retained by some neighbors suggested to have the Zoning Enforcement Officer witness the problems; and then have proper shields placed on the lights and have them redirected away from the homes. Another suggestion was to work with the applicant to redirect the lights and shields as needed. Mr. Ralieggh said that shielding is very important. He said that there is an available sheet metal cover which attaches to the fixture and is adjustable as needed. He said that possibly adding more trees would be helpful. He said that increasing the height of the lights will not eliminate the zoning violations. Thirty foot lights might help spillage but not the glare. Per expert comment, a ten foot difference in height will not help lighting the other side of the field.

Ms. Cameron asked what is "temporary"? Mr. Raleigh answered: after Daylight Savings Time ends, and until early December, with limited hours per day. Mr. Voigt noted that the photos were taken before the arborvitaes were planted in 2011.

Brian Delgado, resident on Hoyt Street, said that his son has finished DJFL. He said he sent a letter to The Darien Patch news service and is not intent on insulting anyone. He said in talking about a ten foot rise in lights, does it make neighboring owners' property less valuable, more impacted, less usable or less enjoyable? He does not see the amendment leading to a plethora of applications. He said this is about "doing the right thing." He said he thinks this will make a better quality of life within the Town. He said that the proposed higher lights will face downward more than shorter lights but he did not know how much. He asked if seeing part of the bulb is intrusive or unacceptable? If so, there are many lights in the Town which are unacceptable.

At about 9:15 P.M., Scott Overbeck from 16 Linda Lane spoke. He said that three teams or more use the field for practice, not just two. He said that on June 1, 2012, he happily moved to Linda Lane. He is in favor of the taller lights and a 7 P.M. cutoff time. He asked if the number of people or location of people count more? Mr. Spain said that it is not the number or the proximity of people, it is the impact or potential impact.

Mr. Hutchison explained that this is a Regulation change, not about the high school or any particular property. He asked if, when the lights were raised to 30 feet as an experiment, was the angle of each fixture changed to be facing downward (more than when the lights were at 20 feet)?.

Jay Hardison of 11 Nearwater Lane said that this is purely about safety. He said that there are typically four or five teams, about eighty kids for practice. He said that he lives directly across from Hindley School and special events at that school will go until 8 or 9 P.M., with lights and music but he feels that this is ok. He asked why a small number of people hold sway over the entire town? He

DARIEN PLANNING & ZONING COMMISSION
PUBLIC HEARING/GENERAL MEETING
MINUTES
JUNE 26, 2012
PAGE 4 OF 25

said that other groups want evening practices and games where twenty or thirty feet lights may be a joke.

Ms. Cameron asked why should people want tall lights to be installed, which is substantial change, when they expect people who bought next to a school not to expect a change. Mr. Conze inquired as to what you tell the 20 families that live around the fields that have to take the financial bullet for the benefit of the many people who want night games and events. The existing Regulation Section 405b and the Special Permit standards were then reviewed.

Mr. Conze said that the DJFL was urged to get a lighting expert to determine the required fixture angles and technical aspects. Mr. Coley said that there are very limited technical aspects of temporary lights powered by generators and there are few manufacturing companies. He said that an expert says that baffling the light would actually make it worse. Mr. Spain noted that when the lights were raised to 30 feet during the experiment, the angle was left unchanged. Mr. Coley responded that it was left unchanged and would need to be adjusted as they have done in the past. Mr. Spain said that trees are another improvement that has been made and will get better. Soon there will be screening for 20 foot lights but there would be no screening for 30 foot lights at this time.

Mr. Harbison said that people who purchased homes near the high school knew the high school was there and they should expect usage and possible impact to their property when that usage is for a benefit for the entire town. Mr. Conze said that the Commission is very cognizant of impact of lights and activity on neighbors. The Commission wants to protect residential neighborhoods from impacts of commercial and Special Permit uses. This must be balanced with the needs of the DJFL, Darien High School and the neighbors. Mr. Harbison said that the greater public good is served by better lighting. Mr. Delcer said that he would not have bought his home in Darien if he knew about the limit upon lights. He asked if high lights that were not seen would be acceptable. Ms. Cameron reminded him that there then would be an increase in activity as well.

Mr. Sini said that it was never suggested to get a different expert. Brief tests were done with no adjustments of the angle of the lights. He said that if taller (30') lights were allowed, he would gladly adjust the angle of the lights. He said that safety is one of the purposes of zoning under the Connecticut State Statutes and he submitted several recent decisions in which the Commission cited safety as a reason for its decision. Mr. Sini reiterated that these are not permanent lights, although others keep bringing that up. He said that there will be change over time and there will be modifications to the language of the Regulation regarding acreage or public property or a more specific focus on the letters from neighbors. He did remind the Commission that some neighbors close to the facilities are in favor of the lights. He submitted information regarding LEED professionals.

Mr. Spain asked why didn't the proposal limit the amendment to just the Darien High School or public sites. Mr. Sini answered that the amendment would allow the Commission to approve 30 foot tall lights where ever they believe it to be appropriate, but it is part of the Special Permit for each individual property. The Regulations do not specify locations but he said the Commission could change/clarify the proposed amendment as they may feel it is needed. Mr. Sini said that the Commission needs to be careful when viewing old pictures of the lights. They can be misleading.

DARIEN PLANNING & ZONING COMMISSION
PUBLIC HEARING/GENERAL MEETING
MINUTES
JUNE 26, 2012
PAGE 5 OF 25

Christina Lirot said that the Commission might want to use a five acre criteria, thus preventing tall lights on small lots. She said that people have the right to quiet and peaceful enjoyment of their property.

Mr. Sini said that there is no data on the impact on property values since the temporary practice lights have been in use at the high school for the past few years. He noted that lights have been proposed at the Darien High School since 1994.

There being no further comments from the public regarding this matter, the following motion was made: That the Planning & Zoning Commission close the Public Hearing regarding this matter. The motion was made by Mr. Spain, seconded by Mr. Hutchison, and was unanimously approved.

At 10:05 P.M., Chairman Conze then read the following agenda item:

Special Permit Application #188-D(1)/Site Plan, Darien Junior Football League (DJFL), Darien High School, 80 High School Lane. Proposing to utilize six (6) portable lights at the Darien High School Stadium Field for seasonal fall use by DJFL from fall 2012-fall 2016. The subject property is located on the north side of High School Lane approximately 1,200 feet west of its intersection with Middlesex Road, and is shown on Assessor's Map #9 as Lots #80 and #81, R-2 Zone.

Mr. Conze confirmed that the Planning & Zoning Commission will incorporate into this application all files of the proposed zoning change and earlier testimony, including this evening.

John Sini, of the Darien Junior Football League (DJFL), said that the time period for the lights would be mid October to prior to Thanksgiving in November. They will limit the time to a maximum of 30 hours by the DJFL. He said that practice will stop at 7 P.M and there will be no games and no weekend activity. He said the height would be the maximum allowed by the Zoning Regulations, either 20 or 30 feet depending on the Commission's decision on the Regulation application.

Mr. Spain asked if there will be shielding on the light sources. Mr. Sini answered that they will adjust the angle of the lights as needed, but they are leary of potential violations of their lease with the supplier of these temporary lights. Mr. Spain suggested that the DJFL could possibly experiment in the summer with the Planning & Zoning Commission approval to adjust and/or shield the 30 foot lights. Mr. Sini said that of the three or more homes/neighbors potentially affected near the Darien High School, two are in favor of the lights.

There being no comments from the public on this matter, the following motion was made: That the Planning & Zoning Commission close the Public Hearing on this matter. The motion was made by Mr. Spain, seconded by Ms. Cameron and unanimously approved.

At about 10:15 p.m., Chairman Conze then read the following agenda item:

Special Permit Application #188-B(1)/Site Plan, Darien Board of Education, Darien High School, 80 High School Lane. Proposing to utilize six (6) portable lights at the Darien High School Stadium Field for seasonal fall use by Darien High School fall sports teams from Fall 2012-Fall 2016. The subject property is located on the north side of High School Lane approximately 1,200

DARIEN PLANNING & ZONING COMMISSION
PUBLIC HEARING/GENERAL MEETING
MINUTES
JUNE 26, 2012
PAGE 6 OF 25

feet west of its intersection with Middlesex Road, and is shown on Assessor's Map #9 as Lots #80 and #81, R-2 Zone.

Dr. Stephen Falcone, Superintendant of Schools, presented the application as a representative from the Board of Education. He said that they would like six portable, temporary lights up to 30 feet, if allowable. He said the first Monday in November will have the right conditions for practice lights to be needed. Darien High School will use the lights until 6 P.M. He said that the Board of Education is working with neighbors and the community at large.

Mr. Conze asked why the Board of Education does not put out an RFP (Request for Formal Proposals) regarding proper lighting options and technical aspects. Dr. Falcone asked: to what scope? Mr. Spain said that draping and shielding of windows as well as the trees that were planted, has been very responsive to the impact on neighbors from the 20 foot lights. The trees are not able to screen 30 foot tall lights yet. He added that the past permit has allowed for adjustment of the period of use due to post season game needs of the teams and any resulting prolonged seasons.

Dr. Falcone said that there will be six light poles with the end units angled toward the center of the field. He said they haven't been able to retro fit these light fixtures with shields as much as some may have wanted. Mr. Conze said that in the short term, there needs to be a technical solution. He said that maybe some day there could be 30 to 40 foot lights for practice and 60 to 80 foot lights for games. Ms. Cameron and Mr. Hutchison said that this is not directly related to this application. They said that the anxiety of the neighborhood is partly the "what if." The Planning & Zoning Commission will incorporate into this record all files of the proposed zoning regulation change and earlier testimony, including this evening.

Dr. Falcone said that they are asking for a five year temporary Special Permit. Paul Michalski of 371 Middlesex Road who spoke earlier in the evening on the zoning change, said that he feels like the tail is wagging the dog. He said when the lights first started, it was for the Darien High School and then the DJFL piggy backed on to the idea and is using the lights in the spare time, i.e., when the Darien High School is done.

There being no additional comments from the public on this matter, the following motion was made: That the Planning & Zoning Commission close the Public Hearing on this matter. The motion was made by Ms. Cameron, seconded by Mr. Spain and unanimously approved.

At about 10:37 P.M., Chairman Conze then read the following agenda item:

Coastal Site Plan Review #273, Land Filling & Regrading Application #274, Jerrold & Sally Fine, 172 Long Neck Point Road. Proposing to construct a new single-family residence and pool; perform associated filling, excavating and regrading; install landscaping; and perform related site development activities within a regulated area. The subject property is located on the west side of Long Neck Point Road approximately 500 feet south of its southern intersection with Pear Tree Point Road, and is shown on Assessor's Map #61 as Lot #22, R-1 Zone.

Attorney Kenneth Bernhard of Cohen & Wolf explained that this is a Land Filling and Regrading Application and a Coastal Area Management Review. He said the Fines have a three acre lot and the old structures were recently removed. They are proposing a new house, pool, garage, and garden

DARIEN PLANNING & ZONING COMMISSION
PUBLIC HEARING/GENERAL MEETING
MINUTES
JUNE 26, 2012
PAGE 7 OF 25

house (which will not be an apartment). He said they will have about 250 cubic yards of excess material, about 20 truckloads, to be removed from the site. He said that they have a tree retention / replacement plan and no construction will be within the Flood Zone. They propose to plant native grass in place of the removed tennis court. He said that State of Connecticut Department of Energy & Environmental Protection (DEEP) have no objections to the application. The work complies with objectives of Coastal Area Management policies and no variances are needed.

Mr. Ginsberg read aloud comments received from the State of CT DEEP. He also said that the Darien Public Works Department made a referral comment regarding a sewer connection.

Lenny D'Andrea, of Rocco V. D'Andrea Inc, said that drain pipes on the north side were inspected and they will replace a section in mid-site. He said there is storm water drainage pre-treatment in the gravel area approximately 100 feet from Mean High Water Line

There being no comments from the public on this matter, the following motion was made: That the Planning & Zoning Commission close the Public Hearing on this matter. The motion was made by Mr. Hutchison, seconded by Ms. Cameron and unanimously approved.

At about 10:45 p.m., Chairman Conze then read the following agenda item:

Coastal Site Plan Review #274, Land Filling & Regrading Application #275, Patric & Xenia Mesot, 11 Queens Lane. Proposing to: construct a new single-family residence with associated septic system; perform associated filling, excavating and regrading; and perform related site development activities within a regulated area. The property is situated on the southwest side of the Queens Lane cul de sac, approximately 700 feet east of the intersection of Old Kings Highway South and Queens Lane and is shown on Assessor's Map #63 as Lot #99, in an R-1 (residential) Zone.

Lenny D'Andrea, P.E., represented the applicant on this application. He said that this is a replacement house at the end of the street. The previous house has already been removed. He said that the new house meets all setbacks and height requirements. A Zoning Board of Appeals (ZBA) variance has already been obtained for the lot depth. An Environmental Protection Commission permit has been obtained for work within their regulated area that includes removal of invasive species and installation of a demarcation line of granite markers. He said that the new septic system will be in front of the house, farther from the pond and Goodwives River. He said that all surplus excavated soil material will be removed. There will be storm water drainage pre-treatment to the northeast of the house.

Mr. Ginsberg read aloud from an e-mail from the DEEP that there were no inconsistencies with CAM policies. He confirmed that Environmental Protection Commission and Zoning Board of Appeals approvals had already been obtained. He also read comments from the Health Department.

There being no comments from the public on this matter, the following motion was made: That the Planning & Zoning Commission close the Public Hearing on this matter. The motion was made by Mr. Hutchison, seconded by Ms. Cameron and unanimously approved.

At about 10:50 p.m., Chairman Conze then read the following agenda item:

DARIEN PLANNING & ZONING COMMISSION
PUBLIC HEARING/GENERAL MEETING
MINUTES
JUNE 26, 2012
PAGE 8 OF 25

Special Permit Application #272, Coastal Site Plan Review #275, Scott & Kristin Fine, 163 Pear Tree Point Road. Proposing to construct a tennis court; install associated stormwater management; and perform related site development activities. The subject property is located on the south side of Pear Tree Point Road approximately 500 feet west of its southern intersection with Long Neck Point Road, and is shown on Assessor's Map #61 as Lot #25, R-1 Zone.

Joshua Klinger said that this will be a new/replacement tennis court. It will comply with all setbacks and regulations. This court will be a hard surface with full surrounding drains. The disturbed area around the court will be covered with sod. They will put in landscaping trees. The court will have no lights. Mr. Ginsberg read an e-mail from the State of Connecticut DEEP which found no inconsistencies with the Coastal Area Management policies.

There being no comments from the public on this matter, the following motion was made: That the Planning & Zoning Commission close the Public Hearing on this matter. The motion was made by Mr. Hutchison, seconded by Mr. Voigt and unanimously approved.

At about 10:55 P.M., Chairman Conze opened the General Meeting.

GENERAL MEETING

The following motion was made: That the Planning & Zoning Commission waive the process of reading the entire draft resolutions aloud because each member has had an opportunity to review the drafts prior to the meeting. The motion was made by Ms. Cameron, seconded by Mr. Spain and unanimously approved.

Chairman Conze then read the following agenda item:

Deliberations and possible decisions on the following closed public hearing items:

Special Permit Application #173-A, KJD Properties, LLC, 841 Boston Post Road. Proposing to establish an ice cream shop in the space formerly occupied by Annie's House of Needlepoint.

After a brief discussion regarding the draft resolution, the following motion was made: That the Planning & Zoning Commission adopt the following resolution to approve the project subject to the noted conditions and stipulations. The motion was made by Mr. Hutchison and seconded by Mr. Voigt. All voted in favor, except Mr. Conze, who was not at the Public Hearing when the application was presented. The motion was passed by a vote of 4-0-1. The Adopted Resolution reads as follows:

PLANNING AND ZONING COMMISSION ADOPTED RESOLUTION June 26, 2012

Application Number: Special Permit Application #173-A
 KJD Properties, LLC

Street Address: 841 Boston Post Road

DARIEN PLANNING & ZONING COMMISSION
PUBLIC HEARING/GENERAL MEETING
MINUTES
JUNE 26, 2012
PAGE 9 OF 25

Assessor's Map #16 Lot #1

Name and Address of Applicant & Applicant's Representative: Panagiotis Kousidis
847 Boston Post Road
Darien, CT 06820

Name and Address of Property Owner: KJD Properties, LLC
847 Boston Post Road
Darien, CT 06820

Activity Being Applied For: Proposing to establish an ice cream shop in the space formerly occupied by Annie's House of Needlepoint.

Property Location: The subject property is located on the north side of Boston Post Road, approximately 100 feet east of its intersection with Mansfield Avenue.

Zone: CBD.

Date of Public Hearing: May 22, 2012 continued to June 12, 2012

Time and Place: 8:00 P.M. Room 206 Town Hall

Publication of Hearing Notices
Dates: May 11 & 18, 2012 Newspaper: Darien News

Date of Action: June 26, 2012 Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action: July 6, 2012 Newspaper: Darien News

The Commission has conducted its review and findings on the bases that:

- the proposed use and activities must comply with all provisions of Sections 650, 900, 1000 and 1020 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted plan, and the statements of the applicant whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds:

DARIEN PLANNING & ZONING COMMISSION
PUBLIC HEARING/GENERAL MEETING
MINUTES
JUNE 26, 2012
PAGE 10 OF 25

1. The applicant proposes to establish an ice cream shop in a 750 +/- square foot space formerly occupied by House of Needlepoint. Other uses within this building include Post Corner Pizza; House of Needlepoint, which has 1,250+/- square feet on the first floor; and four upstairs residential apartments.
2. The property is served by public water and sewer, and is located within the CBD Zone in downtown Darien. In the CBD Zone, the sale of prepared foods such as candy or ice cream for consumption on or off the premises is a Principal Use Requiring a Special Permit per Section 654c. No cooking is proposed as part of the ice cream shop operation.
3. The submitted Site Plan shows parking behind the existing building. It was noted that there are now 4-5 on-street parking spaces directly in front of the building. The Tilley municipal parking lot is directly across Mansfield Avenue, and the Mechanic Street municipal parking lot is directly across the Boston Post Road. None of the off-site parking spaces are reserved for use by the employees or patrons of the proposed business.
4. No outdoor seating/dining is proposed as part of this application. No indoor seating is proposed, other than a seat/bench alongside the indoor front of the building.
5. The submitted site plan shows two dumpsters behind the existing building. It was noted that the ice cream shop tenant space will not have a back door, and therefore, any trash will have to be brought out the front door and around the building. It is up to the property owner to ensure that trash would be picked up sufficient times during the week to not cause a nuisance.
6. At the public hearing, it was noted that the business will take deliveries through the front door on Boston Post Road. It was explained that there is no back entrance to this tenant space. It is expected that the ice cream shop will have 1-2 deliveries per week. Additional indoor storage is available within the adjacent Post Corner Pizza space, which is in the same ownership.
7. The location and size of the use, the nature of the proposed operations involved in or conducted in connection with it, the size of the site in relation thereto, and the location of the site with respect to streets giving access to it, are such that the application is in harmony with the orderly development of the district in which it is located.
8. The location and nature of the proposed use, is such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings, or impair the value thereof.
9. The location and size of the use and the nature and intensity of the proposed operation conforms to the requirements of Section 1005 (a-g) and will not adversely affect public health, safety and welfare.
10. The design, location, and specific details of the proposed use and site development will not adversely affect safety in the streets nor increase traffic congestion in the area, nor will they interfere with the patterns of highway circulation in such a manner as to create or augment unsafe traffic conditions between adjoining developments and the district as a whole.

DARIEN PLANNING & ZONING COMMISSION
PUBLIC HEARING/GENERAL MEETING
MINUTES
JUNE 26, 2012
PAGE 11 OF 25

11. The elements of the Site Plan, submitted as part of the application accomplish the objectives for Site Plan approval as specified in subsections 1024-1025 of the Darien Zoning Regulations.

NOW THEREFORE BE IT RESOLVED that Special Permit Application #173-A is hereby granted subject to the foregoing and following conditions, modifications and understandings:

- A. All interior construction and related activity shall be in accordance with the plan submitted to and reviewed by the Commission:
- Tenant Fit-Up New Ice Cream Shop, Pangiotidis Kousidis, KJD Properties, LLC, Architectural Site Plan, 841 Boston Post Road, by ADA Architects, last revised 4/26/12, Drawing No. S-1.
 - Tenant Fit-Up New Ice Cream Shop, Pangiotidis Kousidis, KJD Properties, LLC, Proposed Floor Plan, 841 Boston Post Road, by ADA Architects, last revised 4/26/12, Drawing No. A-1.

It is acknowledged that the floor plan may need to be modified in response to comments by the Fire Marshal and/or the Darien Health Department.

- B. Because of this property's location in downtown, and because of the fact that no new impervious surface is created as part of this project, the Commission hereby waives the requirement for stormwater management as part of this application as allowed by Section 880 of the Darien Zoning Regulations.
- C. Because of the nature and location of the proposed use, and because of the existing site conditions of this previously developed property, the Commission hereby waives the requirement for a loading zone as authorized by Section 909 of the Darien Zoning Regulations. No delivery vehicles shall be double parked or inappropriately parked on Boston Post Road.
- D. At the public hearing, it was noted that a prior first floor tenant in this building was a hair salon, which had more on-site employees, and was a more intense use than the proposed ice cream shop. The ice cream shop will have 1-3 employees maximum on-site at any one time. Because there is existing on-site parking, employees of the ice cream shop are expected to park on-site, not within municipal lots or on-street.
- E. The submitted floor plan shows only a seat bench in the front interior of the store. Any increase of indoor or outdoor seating in the future requires prior review and action by the Commission.
- F. Because of the ice cream shop's specific location within downtown Darien, there is no limit or restriction on the hours of operation of the ice cream shop.
- G. To avoid early morning or late night trash pick up that could unreasonably disturb others, garbage pickup shall be done on an "as-needed" basis, and shall occur only between the hours of 8:00am-12 noon, or from 1:30pm to 5:30pm. Because of the Post Corner Pizza restaurant use and other tenants now in the building, trash should not be collected during the "lunch-time rush", and it may need to be collected more often than it is currently.
- H. The Dumpster enclosure areas shall contain all trash, garbage and recycling bins and containers. It shall be neatly maintained, and it shall continue to be screened with a stockade (or similar)

DARIEN PLANNING & ZONING COMMISSION
PUBLIC HEARING/GENERAL MEETING
MINUTES
JUNE 26, 2012
PAGE 12 OF 25

doors around it. Those doors shall remain shut at all times that someone is not loading or unloading garbage. The property owner is responsible for maintaining this trash area, including ensuring that it is emptied frequently enough to minimize odors. It is imperative that the doors remain shut when not in use.

- I. Prior to the issuance of a Zoning or Building Permit for the ice cream shop, final revised interior floor plans and equipment plans shall be reviewed by the Fire Marshal and Darien Health Department.
- J. No cooking has been proposed, nor is any allowed. Any odor complaints from commercial and/or residential neighbors shall also be reviewed and investigated by the ZEO. The tenant shall then take appropriate measures to minimize odors from occurring and shall take prompt action to correct any and all odor problems that do occur.
- K. All interior site work shall be properly completed prior to the use of this space and/or the issuance of a Certificate of Occupancy for the ice cream shop.
- L. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke the permit as it deems appropriate.
- M. The granting of this Special Permit does not relieve the applicant of responsibility of complying with all other applicable rules, regulations and codes of the Town, State, or other regulating agency. This includes, but is not limited to, final kitchen review by the Darien Fire Marshal and the Darien Health Department. Any proposed signage or façade changes require review and action by the Architectural Review Board.
- N. This permit shall be subject to the provisions of Sections 1009 and 1028 of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one (1) year of this action (June 26, 2013). This may be extended as per Sections 1009 and 1028.

All provisions and details of the plan shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final documents by the Chairman. A Special Permit form shall be filed in the Darien Land Records within sixty days of this approval or this permit shall become null and void.

Chairman Conze then read the following agenda item:

Coastal Site Plan Review #233-A, Flood Damage Prevention Application #261-A, Mitchell Ross, 10 Nickerson Lane. Proposing to install an in-ground swimming pool and spa, with associated terrace, retaining wall and drainage, and perform related site development activities within regulated areas. This plan is different than the one approved by the Commission in September 2008.

Commission members agreed that the proposed pool would have no impacts. The following motion was made: That the Planning & Zoning Commission adopt the following resolution to approve the

DARIEN PLANNING & ZONING COMMISSION
PUBLIC HEARING/GENERAL MEETING
MINUTES
JUNE 26, 2012
PAGE 13 OF 25

project subject to the noted conditions and stipulations. The motion was made by Mr. Spain and seconded by Mr. Hutchison. All voted in favor except Mr. Conze was not at the Public Hearing when the matter was discussed. The motion was passed by a vote of 4-0-1. The Adopted Resolution read as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
June 26, 2012**

Application Number: Coastal Site Plan Review #233-A
Flood Damage Prevention Application #261-A

Street Address: 10 Nickerson Lane
Assessor's Map #52 Lot #8

Name and Address of Property Owner: Mitchell Ross
10 Nickerson Lane
Darien, CT 06820

Name and Address of Applicant: Chris Olsen
And Owner's Representative: EL Wagner Pools
750 Wordin Avenue
Bridgeport, CT 06605

Activity Being Applied For: Proposing to install an in-ground swimming pool and spa, with associated terrace, retaining wall and drainage, and perform related site development activities within regulated areas. This plan is different than the one approved by the Commission in September 2008.

Property Location: The subject property is located on the south side of Nickerson Lane, approximately 700 feet west of its intersection with Nearwater Lane.

Zone: R-1

Date of Public Hearing: May 22, 2012 continued to June 12, 2012

Time and Place: 8:00 P.M. Room 206 Town Hall

Publication of Hearing Notices
Dates: May 11 & 18, 2012 Newspaper: Darien News

Date of Action: June 26, 2012 Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action: Newspaper: Darien News
July 6, 2012

The Commission has conducted its review and findings on the bases that:

DARIEN PLANNING & ZONING COMMISSION
PUBLIC HEARING/GENERAL MEETING
MINUTES
JUNE 26, 2012
PAGE 14 OF 25

- the proposed use and activities must comply with all provisions of Sections 400, 810 and 820 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted development plans, and the statements of the applicant whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds:

1. The subject application proposes to install an in-ground swimming pool and spa, with associated terrace, retaining wall and drainage, and perform related site development activities within regulated areas. This plan is different than the one approved by the Commission in September 2008. The submitted plan shows no trees to be cut as part of this proposal.
2. At the public hearing, the owner's representative outlined the changes between the submitted plans and the plans approved by the Commission in 2008 for a pool. The changes were shown on the Plan entitled, "Wagner #3.2 2009 Approved vs. 2012 Proposed".
3. The State of Connecticut DEEP sent an e-mail dated May 22, 2012, noting that "...we have reviewed the proposal for consistency with the applicable policies of the Connecticut Coastal Management Act...and find no inconsistencies."
4. The Commission has considered all evidence offered at the Public Hearing regarding the character and extent of the proposed activities, the land involved, the possible effects of the activities on the subject property and on the surrounding areas, and the suitability of such actions to the area for which it is proposed.
5. This proposed residence is on a property immediately adjacent to Holly Pond, which feeds into Long Island Sound. It was noted at the public hearing that the proposed new pool will not have any drainage impacts on adjacent or nearby properties, and will comply with the Flood Damage Prevention regulations.
6. The proposed activities, to be implemented with the conditions and modifications listed below, will have no adverse impact on flooding, and therefore, this proposal is consistent with the need to minimize flood damage.
7. The Commission finds that the proposed development, if properly implemented and protected, is not contrary to the goals, objectives and policies of the Coastal Area Management Program.
8. The potential adverse impacts of the proposed activity, as modified within this resolution, on coastal resources are acceptable.
9. The proposed activities also include filling and regrading a portion of the existing property and managing storm water runoff so that it does not negatively impact the nearby properties.
10. The site plan has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.

DARIEN PLANNING & ZONING COMMISSION
PUBLIC HEARING/GENERAL MEETING
MINUTES
JUNE 26, 2012
PAGE 15 OF 25

11. The proposal conforms to the standards for approval as specified in Section 1005 (a) through (g) of the Darien Zoning Regulations.

NOW THEREFORE BE IT RESOLVED that Coastal Site Plan Review #233-A and Flood Damage Prevention Application #261-A are hereby modified and granted subject to the foregoing and following stipulations, modifications and understandings:

- A. Pool construction and other development activity shall be in accordance with the following plans submitted to and reviewed by the Commission:
- Zoning Location Survey of #10 Nickerson Lane prepared for Mitchell Ross Kerry Ross, by William W. Seymour & Associates, scale 1"=30', dated January 13, 2011 and last revised April 10, 2012.
 - Ross Residence 10 Nickerson Lane, Site Drainage Plan, by GHD, Inc., dated 4/12/12.
 - Wagner #2 Building Permit Pool Plan Mitchell Ross Residence 10 Nickerson Lane, by Wagner Pools, last revised 4-4-12.
 - Wagner #3.2 2009 Approved vs. 2012 Proposed Mitchell Ross Residence 10 Nickerson Lane, by Wagner Pools, dated 4-12-12.
- B. The Commission hereby requires that a cartridge filter system be used for the pool equipment. This condition is the same as that within their 2008 approval.
- C. Due to the subject property's location immediately adjacent to Long Island Sound, and the minimal amount of new impervious surface proposed, the Commission hereby waives the requirement for stormwater management under Section 880 of the Zoning Regulations.
- D. During construction, the applicant shall utilize the sediment and erosion controls illustrated on the submitted GHD, Inc., plans and any additional measures as may be necessary due to site conditions. These sediment and erosion controls shall be installed and maintained to minimize any adverse impacts during the construction and until the area has been revegetated or restabilized. The Planning and Zoning Department shall be notified prior to commencement of work and after the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient and are as per the approved plans. All erosion control measures must be maintained until the disturbed areas are stabilized.
- E. The applicant/property owner shall have the continuing obligation to make sure that storm water runoff and drainage from the site of the regrading will not have any negative impacts upon the adjacent property(ies) and/or Nickerson Lane. If such problems do become evident in the future, the owner of the property shall be responsible of remedying the situation at their expense and as quickly as possible.
- F. Once the construction work is complete, and prior to the use, or issuance of a Certificate of Zoning Compliance for, the pool, the applicant shall submit verification from the project designer that all aspects of the pool construction have been completed in compliance with the approved plans and the flood damage prevention regulations. A final "as-built" survey is hereby required to verify that the final work is in compliance with the approved plans and the Flood Damage Prevention Regulations.
- G. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke the permit as it deems appropriate.

DARIEN PLANNING & ZONING COMMISSION
PUBLIC HEARING/GENERAL MEETING
MINUTES
JUNE 26, 2012
PAGE 16 OF 25

- H. The granting of this approval does not relieve the applicant of the responsibility of complying with all other applicable rules, regulations and codes of the Town, State, or other regulating agencies.
- I. This permit shall be subject to the provisions of Sections 815 and 829f of the Darien Zoning Regulations, including but not limited to, implementation and completion of the approved plan within one (1) year of this action (June 26, 2013). This may be extended as per Sections 815 and 829f.

All provisions and details of the plan shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final documents by the Chairman.

Chairman Conze then read the following agenda item:

Special Permit Application #34-I/Site Plan, Woodway Country Club, 540 Hoyt Street. Proposing to replace the existing pool complex and reconfigure the existing adjacent parking lot together with improvements to site drainage and utilities, and to perform related site development activities. *PUBLIC HEARING CLOSED: 6/12/2012. DECISION DEADLINE: 8/16/2012.*

The following motion was made: That the Planning & Zoning Commission adopt the following resolution to approve the project subject to the noted conditions and stipulations. The motion was made by Mr. Hutchison and seconded by Mr. Spain. All voted in favor except Mr. Conze, who was not at the Public Hearing when the matter was discussed. The motion was passed by a vote of 4-0-1. The Adopted Resolution read as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
June 26, 2012**

Application Number: Special Permit #34-I/Site Plan

Street Address: 540 Hoyt Street
Assessor's Map #3 Lot #137

Name and Address of Applicant and Property Owner:	Woodway Country Club, Inc. 540 Hoyt Street Darien, CT 06820
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Name and Address of Applicant's Representative:	Brian McMahon Redniss & Mead, Inc. 22 First Street Stamford, CT 06905
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Activity Being Applied For: Proposing to replace the existing pool complex and reconfigure the existing adjacent parking lot together with improvements to site drainage and utilities, and to perform related site development activities.

DARIEN PLANNING & ZONING COMMISSION
PUBLIC HEARING/GENERAL MEETING
MINUTES
JUNE 26, 2012
PAGE 17 OF 25

Property Location: The subject property is located on the west side of Hoyt Street, approximately 1000 feet north of its intersection with Woodway Road.

Zone: R-2 and R-1/2

Date of Public Hearing: May 22, 2012 continued to June 12, 2012

Time and Place: 8:00 P.M. Room 206 Town Hall

Publication of Hearing Notices

Dates: May 11 & 18, 2012

Newspaper: Darien News

Date of Action: June 26, 2012

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of
Action: July 6, 2012

Newspaper: Darien News

The Commission has conducted its review and findings on the bases that:

- the proposed use and activities must comply with all provisions of Sections 400, 1000 and 1020 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted redevelopment plans, and the statements of the applicant whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds:

1. The proposal is to replace the existing pool complex and reconfigure the existing adjacent parking lot together with improvements to site drainage and utilities at Woodway Country Club, and to perform related site development activities. The proposed work will result in an overall decrease in on-site impervious surface.
2. The Architectural Review Board (ARB) approved this application on April 24, 2012 as part of ARB #14-2012. On May 2, 2012, the Environmental Protection Commission (EPC) also approved this project as part of EPC #18-2012. Those approvals are hereby incorporated by reference.
3. The application proposes a reduction in the amount of parking in the vicinity of the pool house. The Commission finds that the amount of provided parking is satisfactory, and complies with Section 904t of the Darien Zoning Regulations. It was noted at the public hearing that nearby

DARIEN PLANNING & ZONING COMMISSION
PUBLIC HEARING/GENERAL MEETING
MINUTES
JUNE 26, 2012
PAGE 18 OF 25

overflow parking exists for large events, and those larger events can easily be anticipated by the Club and prepared for ahead of time relative to the provision of necessary parking.

4. The South Western Regional Planning Agency (SWRPA) sent the following comment dated May 8, 2012: "Provided there is a maintenance and cleanout plan for the proposed catch basin inserts to maintain the proper functioning of the new storm-water system, it is not anticipated there will be adverse inter-municipal impacts."
5. As noted by the applicant at the public hearing on this matter, no change in membership or general activities at the club is proposed as part of this application.
6. The Commission notes the need for the applicant or property owner(s) to file a Notice of Drainage Maintenance Plan in the Darien Land Records. This will alert future property owners of the existing on-site drainage facilities and the need to maintain said facilities to minimize any potential downhill impacts.
7. The nature of the proposed use is such that the project will not hinder or discourage the appropriate development and use of adjacent land and buildings, or impair the value thereof.
8. The site plan has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
9. The proposal conforms to the standards for approval as specified in Section 1005 (a) through (g) of the Darien Zoning Regulations.
10. The location and size of the use and the nature and intensity of the proposed operation conforms to the requirements of Section 1005 (a-g) and will not adversely affect public health, safety and welfare.

NOW THEREFORE BE IT RESOLVED that Special Permit #34-I is hereby granted subject to the foregoing and following stipulations, modifications and understandings:

- A. Construction shall be in accordance with the plans submitted to and reviewed by the Commission. These include:
 - Site Development Plan depicting Woodway Country Club, by Redniss & Mead, Drawing No. SE-1 through SE-6. Drawing SE-1 dated 04/13/12 and other Drawings dated 04/20/12.
 - Woodway Country Club Pool/Tennis/Clubhouses 540 Hoyt Street, by Culpen & Woods Architects, last revised 04/06/12, Drawing Number A-1.0 through A-1.3, A-2.0 through A-2.3, A-3.1 through A-3.7.
- B. By August 26, 2012 (within the next 60 days) a Drainage Maintenance Plan shall be submitted to the Planning and Zoning Office for review and action by the Director of Public Works and the Planning and Zoning Director. After approval by the two Directors, it shall be filed in the Planning & Zoning Department. The Drainage Maintenance Plan shall require the property owner and all subsequent property owners of 540 Hoyt Street to maintain the on-site drainage facilities, and will alert future property owners of the existing on-site drainage

DARIEN PLANNING & ZONING COMMISSION
PUBLIC HEARING/GENERAL MEETING
MINUTES
JUNE 26, 2012
PAGE 19 OF 25

facilities and the need to maintain said facilities to minimize any potential downhill impacts. A Notice of Drainage Maintenance Plan shall be filed in the Darien Land Records within the next 60 days of this approval and prior to the start of any filling or regrading work around the house.

- C. A detailed storm water drainage system design has been incorporated into the plans to avoid potential impacts of runoff on the adjacent properties and to improve water quality. Prior to the request for the Certificate of Occupancy for the pool house, the applicant shall submit verification from the project engineer that all aspects of the site regrading and storm drainage system installation have been completed in compliance with the approved plans.
- D. During construction, the applicant shall utilize the sediment and erosion controls illustrated on the plans, and any additional measures as may be necessary due to site conditions. These sediment and erosion controls shall be installed and maintained to minimize any adverse impacts during the construction and until the area has been revegetated or restabilized. The Planning and Zoning Department shall be notified prior to commencement of work and after the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient and are as per the approved plans. All erosion control measures must be maintained until the disturbed areas are stabilized.
- E. Because of the nature and location of the proposed use, and because of the existing site conditions of this previously developed property, the Commission hereby waives the requirement for a loading zone as authorized by Section 909 of the Darien Zoning Regulations.
- F. The Dumpster enclosure areas shall contain all trash, garbage and recycling bins and containers. It shall be neatly maintained, and it shall be screened with a new stockade (or similar) doors around it. Those new doors shall remain shut at all times that someone is not loading or unloading garbage. The property owner is responsible for maintaining this trash area including ensuring that it is emptied frequently enough to minimize odors. It is imperative that the doors remain shut when not in use.
- G. To avoid early morning or late night trash pickup that could unreasonably disturb others, garbage pickup shall be done on an "as-needed" basis, and shall occur only no earlier than 6:00 a.m.
- H. All site work, including but not limited to site improvements as shown on the approved plans and as noted herein shall be properly installed and completed prior to the use of this space and/or the issuance of a Certificate of Occupancy for the pool house building.
- I. The Commission is requiring the venting of fumes or odors from the kitchen, with the specific design to be reviewed and approved by the Darien Fire Marshal.
- J. The granting of this Permit does not relieve the applicant of the responsibility of complying with all other applicable rules, regulations and codes of the Town, State, or other regulating agency. This includes, but is not limited to, approval from the Darien Public Works Department for any sanitary sewer work. This includes, but is not limited to, final approval

DARIEN PLANNING & ZONING COMMISSION
PUBLIC HEARING/GENERAL MEETING
MINUTES
JUNE 26, 2012
PAGE 20 OF 25

from the Darien Fire Marshal for venting and emergency lighting; and final kitchen review, and approval of the septic system abandonment by the Darien Health Department. If the applicant's grease trap will be outside the building envelope, a permit from Darien Public Works Department is required. Fire Marshal may require the establishment of Fire Lanes. Pool plans must be submitted to and acted upon by the State Health Department for review before a Zoning and Building Permit is issued.

- K. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke this permit as it deems appropriate.
- L. This permit shall be subject to the provisions of Sections 1009 and 1028 of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one (1) year of this action (June 26, 2013). This may be extended as per Sections 1009 and 1028.

All provisions and details of the plan shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final documents by the Chairman. A Special Permit form and Notice of Drainage Maintenance Plan shall be filed in the Darien Land Records within 60 days of this action and prior to the start of the filling and regrading work, or this approval shall become null and void.

Chairman Conze then read the following agenda item:

Proposed Amendments to the Darien Zoning Regulations #1-2012, put forth by Baywater 745 BPR, LLC. Zoning Regulation amendments are proposed to Section 585 which would allow the Commission to grant an incentive for building coverage for inclusionary zoning projects. *DECISION DEADLINE: JULY 3, 2012.*

There was discussion regarding coverage for 25% of incentive units or 25% of total. Mr. Ginsberg will check and correct if necessary to conform to the wording of the regulations. The following motion was made: That the Planning & Zoning Commission adopt the following resolution to approve the project subject to the noted conditions and stipulations. The motion was made by Mr. Hutchison and seconded by Mr. Spain. The motion was passed by a vote of 5-0. The Adopted Resolution read as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
June 26, 2012**

Application: Amendments to the Darien Zoning Regulations (COZR #1-2012)
Put forth by Baywater 745 BPR, LLC, 745 Boston Post Road

Street Address: 745 Boston Post Road

DARIEN PLANNING & ZONING COMMISSION
PUBLIC HEARING/GENERAL MEETING
MINUTES
JUNE 26, 2012
PAGE 21 OF 25

Assessors Map #16 Lots #15 & #16

Name and Address of Property Owner(s): Baywater 745BPR, LLC
c/o 1019 Boston Post Road
Darien, CT 06820

Name and Address of Applicant &: Robert F. Maslan, Jr., Esq.
Applicant's Representative: Maslan Associates, PC
30 Old King's Highway South
Darien, CT 06820

Activity Being Applied For: Zoning Regulation amendments are proposed to Section 585 which would allow the Commission to grant an incentive for building coverage for inclusionary zoning projects.

Subject property: The 745 Boston Post Road property is on the northwest corner formed by the intersection of Academy Street and Boston Post Road.

Zones: DB-1, and R-1/3 Zones; and DBR overlay Zone

Dates of Public Hearing: May 1, 2012

Time and Place: 8:00 P.M. Room 206 Town Hall

Publication of Hearing Notices

Dates: April 20 & 27, 2012

Newspaper: Darien News

Date of Action: June 26, 2012

Action: ADOPTED WITH MODIFICATIONS
WITH AN EFFECTIVE DATE OF SUNDAY,
JULY 15, 2012 AT TWELVE NOON.

Scheduled Date of Publication of Action:
July 6, 2012

Newspaper: Darien News

Following careful review of the submitted application materials and related analyses, the Commission finds:

1. On November 22, 2011, the commission approved the redevelopment of 745 Boston Post Road and as part of that, approved changes to the Darien Zoning Regulations and the site specific development plan. It was later discovered that a miscalculation had been made regarding the proposed building coverage. One or both of the garage structures had not been included in the building coverage calculation, and therefore, the change that the Commission had incorporated into the Regulations was not sufficient to accommodate the development

DARIEN PLANNING & ZONING COMMISSION
PUBLIC HEARING/GENERAL MEETING
MINUTES
JUNE 26, 2012
PAGE 22 OF 25

that the applicant had desired. The current proposed amendment is to modify the Regulations, so that instead of a 25% increase of building coverage, the Regulations would allow the Commission to increase the building coverage to 50% of what is normally allowed.

2. At the public hearing, comments from the South Western Regional Planning Agency (SWRPA) as noted in their April 2, 2012 response were read aloud. They noted that the change is not likely to have any inter-municipal impacts provided the DBR overlay zone Regulations are not extended in areas closer to the municipal boundaries.
3. Attorney Maslan, who represented the property owner, noted that this project was approved under the Design Business and Residential (DBR) Regulations. Mr. Maslan said that the proposed modifications are now an exception of 50% of the normal regulations. He is proposing that the exception should only be allowed if the size and proposed development will not negatively impact the adjacent properties. David Genovese, project applicant, said that in any case, the exception is at the discretion of the Planning & Zoning Commission when considering a Special Permit application within this Zone. The Commission agrees that granting such an incentive may not be appropriate in all situations.
4. At the public hearing, it was noted that the DB-1 Zone is specially designed to discourage the compiling of smaller parcels into a larger development site of an acre or larger.
5. Mr. Maslan said that the purpose of this proposed amendment is to correct efficiency in the previous approval process. He said that if the Commission approves and adopts the amendment, there would be no need to go back and amend the approval for the 745 Boston Post Road project. He said that the proposed amendment would allow the Commission to grant up to a 50% exception, but only if the Commission finds that it will not affect the residential properties in the area.
6. Regarding the discussion of lot sizes in the area, at the public hearing, Mr. Ginsberg suggested that the Commission include in the record a copy of Assessor Map #16 to show the size of the nearby properties. Everyone agreed to include Assessor's Map #16 in the record. That map shows the lots within the DB-1/DBR zones on both sides of Boston Post Road. The subject property at 745 Boston Post Road is .592 acres. On the north side of the road, there are eleven parcels total (including the subject property). Of those 11, four appear to be larger and six smaller. Of the 14 parcels on the south side of Boston Post Road, four appear to be larger and ten smaller. The Commission believes that the choice of a 0.6 acre standard would be appropriate to include as part of this regulation amendment.
7. Within the bound binder of the applicant's submitted materials received on March 19, 2012, Pages 6-1 through 6-3, the Housing Chapter, of the 2006 Town Plan of Conservation & Development (the "Town Plan") were submitted. The applicant notes that the proposed zoning regulation amendment is consistent with the Town Plan.
8. The Commission finds that the proposed zoning regulation amendments, as modified and adopted herein, are consistent with the 2006 Town Plan of Conservation & Development, as amended.

DARIEN PLANNING & ZONING COMMISSION
PUBLIC HEARING/GENERAL MEETING
MINUTES
JUNE 26, 2012
PAGE 23 OF 25

NOW THEREFORE BE IT RESOLVED that based upon the review of all of the materials and information, the Commission, acting in its legislative capacity, hereby ADOPTS the ***Proposed Amendments to the Darien Zoning Regulations*** WITH AN EFFECTIVE DATE OF SUNDAY, JULY 15, 2012 AT TWELVE NOON, as noted herein:

NEW WORDING IN BOLD, DELETIONS IN STRIKEOUT:

585. Incentives

Developments subject to the provisions of Section 580, except for single-family subdivisions, may, at the absolute discretion of the Commission, be eligible for an increase in permitted density up to 50 percent greater than the allowed density provided at least 25 percent of such incentive units are designated as below market rate and the Commission determines that such incentives do not adversely affect the health, safety and welfare of the public in general, and the immediate neighborhood. In such cases, the Commission may, at the absolute discretion of the Commission, allow any or all of the following waivers, provided the Commission finds that such waiver encourages the development of below market rate housing and is consistent with the surrounding neighborhood:

- a. Recreational or open space requirements may be reduced.
- b. Minimum yard requirements may be reduced.
- c. Maximum building coverage requirements may be increased.
- d. Parking requirements may be reduced.
- e. Height may be increased to allow three stories.
- f. Height may be increased to allow up a maximum building height of 32.5 feet by Special Permit.

In no case shall the Commission approve a waiver described in a. through e. above, resulting in a requirement that deviates by more than 25% from the originating regulation. **On lots less than 0.6 acres in area in the Designed Business One Zone (DB-1), the Commission may increase building coverage by up to 50 percent from the originating regulation, provided that the Commission shall find that the height and bulk of the proposed buildings on the subject site shall not adversely impact abutting residential properties.**

At about 11:00 P.M., Chairman Conze then read the following agenda item:

Deliberation ONLY on the following closed public hearing items:

Coastal Site Plan Review #257-C, Flood Damage Prevention Application #289-C, Land Filling & Regrading Application #245-C, Dale & Hillary Miller, 5 Tokeneke Beach Drive. Proposing to raze the existing residence and demolish the existing pool, and to construct a new single-family residence and pool and to perform related site development activities within regulated areas.

This matter will be discussed at the next meeting on July 10, 2012.

DARIEN PLANNING & ZONING COMMISSION
PUBLIC HEARING/GENERAL MEETING
MINUTES
JUNE 26, 2012
PAGE 24 OF 25

Chairman Conze then read the following agenda item:

Amendment of Special Permit #42-H/Site Plan, Parklands Office Park, LLC, 3 Parklands Drive. Request for modifications to Site Plan and Special Permit to: 1) construct a 460+/- square foot terrace; 2) relocate Dumpster with associated fence/screen; and 3) revise the previously approved landscaping plan. *PUBLIC HEARING CLOSED 6/5/2012. DECISION DEADLINE: 8/9/2012.*

Mr. Hutchison recused himself from the discussion and left the room—he was not present for this discussion. Mr. Spain said that he was not present at one of the meetings regarding this matter but listened to the tape of the meeting to familiarize himself with the matter.

Ms. Cameron said that this is a minimum use and there is a great distance from the terrace to homes but can understand the concerns of the neighbors. Mr. Conze said that the dumpster location should be behind the building, not in the middle of the parking lot. Mr. Ginsberg reminded the Commission that Attorney Wilder Gleason suggested possible stipulations to limit the use of the terrace to assure that it will not impact the neighbors. He will review all those stipulations/limitations. Mr. Spain said that this work clearly required a permit. He said that they should not be penalized but there need to be restrictions. Mr. Spain suggested to request professional certifications and/or as-built surveys, including structural support of the wall, as it needs to be code compliant. Ms. Cameron said that screening could include large potted evergreens on the patio. She also suggested to restrict hours of trash pick up at the site. Mr. Voigt expressed his displeasure with them doing the work without first obtaining proper permits.

Mr. Conze asked Mr. Ginsberg to draft a resolution regarding this application for consideration at an upcoming meeting.

Chairman Conze then read the following agenda item:

Special Permit Application #89-G/Site Plan, Darien Public Works Department, 126 Ledge Road. Proposing to temporarily establish recycling of waste concrete, asphalt, rock and dirt over a 90 day period in the summer of 2012 at the existing Transfer Station at 126 Ledge Road.

Mr. Conze asked Mr. Ginsberg to draft a resolution regarding this application for consideration at an upcoming meeting.

Chairman Conze then read the following agenda item:

Business Site Plan #146-C/Special Permit, Anthony's Coal Fired Pizza, 319 Boston Post Road. Proposal to install additional parking with related landscaping and stormwater management; to install outdoor dining on a proposed terrace in front of the existing restaurant; and to perform related site development activities. *HEARING CLOSED: 6/12/2012. DECISION DEADLINE: 8/16/2012.*

General discussion on the application clarified that the outside dining was withdrawn. It was suggested that the screenings and plantings could be improved. Looks to be a positive application but this additional parking might not solve the peak parking demand even with employees parking

DARIEN PLANNING & ZONING COMMISSION
PUBLIC HEARING/GENERAL MEETING
MINUTES
JUNE 26, 2012
PAGE 25 OF 25

off site. Mr. Conze asked Mr. Ginsberg to draft a resolution regarding this application for consideration at an upcoming meeting.

Chairman Conze then read the following agenda item:

Coastal Site Plan Review #270-A, Flood Damage Prevention Application #306-A, Land Filling & Regrading Application #270-A, Paul & Amy Darrah, 11 Peabody Lane (aka 66 Salem Straits). Proposing to: raze the existing residence and construct a replacement single-family residence with garage and pool; connect to the Town sewer system and abandon the existing septic system(s); raze the existing second residence and detached garage on the property.

Mr. Conze asked Mr. Ginsberg to draft a resolution regarding this application for consideration at an upcoming meeting.

There being no further business, the meeting was adjourned at 11:15 P.M.

Respectfully submitted,

David J. Keating
Assistant Planning & Zoning Director

06.26.2012min